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EXAMINER
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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Paper No. 14

Application Number: 09/514,657
Filing Date: February 29, 2000
Appellant(s): WAESTERLID, ANDERS

Stephen Herrera, Reg. # 47,642
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 7-10-03.

(1)   Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2)   Related Appeals and Interferences

A statement identifying the related appeals and interferences which will directly

affect or be directly affected by or have a bearing on the decision in the pending appeal

is contained in the brief.

(3)   Status of Claims

The statement of the status of the claims contained in the brief is correct.

(5)   Summary of Invention

The summary of invention contained in the brief is correct.

(6)   Issues

The appellant's statement of the issues in the brief is correct.

(7)   Grouping of Claims

Appellant's brief includes a statement that claims 1-25 (claim 9 is cancelled) do

not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and

(c)(8).

(8)   Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9)   Prior Art of Record

5,412,654	Perkins	1-10-94
WO98/17032	Borgstahl et al.	4-1998

Rosenberg et al. IETF Internet Draft (11-1998

For the above reasons, it is believed that the rejections should be sustained.

(10)   Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-7 and 19-25 rejected under 35 U.S.C. 103. This rejection is set forth in

prior Office Action, Paper No. 12.

(11)   Response to Argument

a. Section A: The appellant argues the Law of Obviousness which is interpreted

by the examiner as meaning that the rejection is improper since it would not be obvious

to combine the art used. The examiner disagrees since the prior art cited solves

technical problems directly related to the appellant's application – Borgstahl teaches a

peer-to-peer system that has member devices being updated when in proximity,

Rosenberg teaches a notification system that updates a user when information changes

and Perkins teaches a multi-member system whereby update messages are sent to all

members when transmission path information changes.

Pertinent evidence is the fact that the appellant discloses in their specification

(page 1, last paragraph) that affinity groups (ie. AOL Instant Messanger, chat rooms,

Microsoft Outlook, etc.) exist today and have been well known in the art for many years.

b. Section B: The appellant argues that Borghstahl and Rosenberg fail to teach

"when the status of any member in said affinity group changes, sending an update

message from said member whose status has changed to said each other member of

said affinity group" AND "storing in each device, status information concerning each

other member". The examiner disagrees for many reasons:

i. Firstly, and most importantly, the concept of affinity groups are well known in the art and <u>are discussed/admitted in the appellant's specification</u> (see page 1, Last Paragraph which discusses chat rooms, email, PIM, Microsoft Outlook, Instant Messenger, ICQ, etc.) [This is disclosure of a system whereby each member is linked to the others and updates are broadcast as changes occur (eg. if a female member marries and changes her maiden name, this will be updated to all other members].

ii. Rosenberg teaches an "event notification service allowing a user to subscribe to some entity" whereby "when a state change occurs, a notification is delivered to the subscriber" (See first page, Introduction – Rosenberg states that a user subscribes to some entity and requests to be informed about changes to a state that they subscriber to. Rosenberg goes on to disclose that the services a user can subscribe to are extremely broad and events include things like network management, presence information, device status, system failures, etc.. This is interpreted by the examiner to read on the appellant's claim of "delivering notice when a state change occurs").

iii. Perkins teaches a system whereby multiple mobile units store routing tables which contain known paths from their unit to another unit/destination for message transmittal. If/when a path changes, the routing update is broadcast to all other members for storage (abstract, C31, L54-70 and C32, L33-47).

Hence the examiner's rejection, which relies on the prior art and knowledge of one of ordinary skill in the art at the time of the invention, teaches members of an affinity group and storing of data about each other member.

Lastly, the appellant argues that the obviousness statement used by the examiner for claim 1 (et al) incorrectly uses hindsight. The examiner disagrees since the prior art cited teaches the claimed limitations and Perkins teaches updating each member for the most up-to-date information.

b. Section C: The appellant argues that Perkins does not remedy the issues of Section B. The examiner disagrees since Perkins' system describes an affinity group whereby each mobile unit stores data (eg. routing table information) of other members that are updated as transmission paths change. Secondly, affinity groups are known in the art (as admitted by the appellant's spec.). Therefore the Borgstahl, Rosenberg and Perkins combination teaches a system whereby members of an affinity group are updated as member data changes. The combination, and hence the rejection, is correct.

c. Claim 1: The appellant incorrectly interprets the rejection as outlined by the examiner. Borgstahl and Rosenberg teach the claimed limitations except for the fact that they do not explicitly recite use in an affinity-type system. Firstly, the appellant's specification discloses affinity groups. Secondly, Perkins is cited to remedy the limitation that multiple members of a group (eg. routing group) send updates to each other as information (eg. transmission paths) changes. One skilled in the art would use this method to update other parameters (as taught by Rosenberg's notification system). Thirdly, Borgstahl does disclose a peer-to-peer system which can be interpreted as an affinity group.

The appellant also argues that Perkins fails to teach "storing in each device status information of each other member of the affinity group". This is incorrect since Perkins does teach storing information (eg. routing status) in each mobile unit (The examiner also points out that storing routing data in routers/mobile devices is well known in the art and several routing protocols exist that support this, ie. Link State and Distance Vector). The examiner asks "why would Borgstahl or Rosenberg's systems not be capable of receiving an update and storing it? And "How would one know that an update occurred if the data was not stored in the first place"? This would require the user to remember any/all status data which is not disclosed (and would be preposterous) – all the prior art cited use a computer processor which inherently contain storage data.

The appellant argues that storing in each mobile device is not taught. The examiner disagrees since Perkins teaches storing status information (eg. routing data) in each member mobile device.

As a final note, the appellant makes a concerted effort (over several pages) to point out supposed flaws in the examiner's rejection (again) regarding the use of PERKINS, the language of claim 2 which states that Borgstahl teaches all of claim 1 and (yet again) that the 103 combination is improper. Addressing each point:

- Taking into account that Borgstahl teaches a peer-to-peer system whereby nearby peers are serviced/updated with information AND Rosenberg who teaches an event notification system that notifies/updates a user when a change occurs specific to their situation, Perkins is added to "glue" together these systems to explicitly disclose a multi-member system that updates peers with recent information. Perkins is relevant since the update is
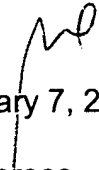
important information that allows a user to optimally operate (which is reason for motivation).

- For Claim 2 (and others), the examiner uses "shorthand" notation to state that Borgstahl teaches claim 1. The examiner uses this notation to reference all the elements of the claim 1 rejection - which inherently includes Rosenberg/Perkins. The examiner apologizes for any confusion on the appellant's part.

- 103 improper rejection: The examiner again points to the rejection of record and the explanation found in this document.

- d. Claims 2-5 and 8-11: The appellant argues that Perkins is not applied to these claims. The appellant is incorrect since these claims all depend from an independent claim that was rejected using Perkins in combination – hence the Perkins reference is included.

- e. Claim group 6: The claims 10-18 are allowed by the examiner.

- f. Claim group 7: This argument relates to previous arguments regarding the improper rejection (see above).

Respectfully submitted,

SMD
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